

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

EMRAN KHUWAJA,

Plaintiff and Appellant,

v.

HUSSAIN LADAK,

Defendant and  
Respondent.

B306355

(Los Angeles County  
Super. Ct. No. 19STRO00982)

[And four other cases.]\*

APPEAL from orders of the Superior Court of Los Angeles County, Dianna Gould-Saltman, Judge. Affirmed.

ADLI Law Group and Marina Manoukian for Plaintiff and Appellant and Defendant and Appellant.

---

\* *Emran Khuwaja v. Erum Ladak* (No. 19STRO00983); *Emran Khuwaja v. Shahbano Ladak* (19STRO00984); *Hussain Ladak v. Emran Khuwaja* (19STRO02702); *Emran Khuwaja v. Salima Ladak* (No. B306357; 18STFL11638).

Eisenberg & Associates and Mark S. Eisenberg for  
Defendants and Respondents and Plaintiff and Respondent.

\* \* \* \* \*

Plaintiff and appellant Emran Khuwaja (appellant) appeals from the trial court's orders awarding defendants and respondents Hussain Ladak, Erum Ladak, Shahbano Ladak, and Salima Ladak (collectively, respondents)<sup>1</sup> attorney fees as the prevailing parties under Family Code section 6344.<sup>2</sup> Appellant contends the fee awards must be reversed because they were issued without "notice and a hearing" as required by section 6344, subdivision (a), and because there was no evidence to support a determination, as required under subdivision (b), that respondents were unable to pay their own fees. We affirm the trial court's orders.

### **BACKGROUND**

On February 21, 2020, the trial court granted Hussain's request for a domestic violence restraining order (DVRO) against appellant and denied appellant's requests for DVRO's against Hussain, Erum, Shahbano, and Salima. In its February 21, 2020 order granting Hussain's request for a DVRO, the trial court bifurcated the issue of attorney fees, set a briefing schedule for the parties to address that issue, and ordered the parties to

---

<sup>1</sup> Because respondents share the same surname, we refer to them individually by their first names to avoid confusion.

<sup>2</sup> All further references are to the Family Code unless stated otherwise.

exchange and file income and expense declarations. The February 21, 2020 order does not set a hearing date on the attorney fees issue.

On March 10, 2020, respondents' attorney filed a declaration and billing records in support of respondents' request for attorney fees and costs totaling \$40,938.91. On March 30, 2020, appellant's attorney filed a declaration in opposition to respondents' attorney fees request, arguing that the request should be denied because appellant had no ability to pay those fees. Appellant argued in the alternative that the fee request be deferred until the trial of appellant's and Salima's divorce action. On April 6, 2020, respondents' attorney filed a declaration in response arguing that appellant had adequate financial resources to pay an attorney fees award and that such an award was necessary to deter appellant from filing meritless proceedings.

On April 15, 2020, the trial court issued, without a hearing, written rulings stating that the declaration submitted by respondents' attorney was deficient in that it failed to indicate the specific work done for each client. The court found the \$300 hourly rate for respondents' counsel "well within the reasonable range for his level of experience and expertise" and "the overall number of hours expended . . . not unreasonable given the complexity of the facts and the various parties involved as well as the need for interpreters for some parties." The trial court expressed being "troubled" by the income and expense declaration submitted by appellant because it failed to indicate the source of payments for living expenses, making it difficult to assess his ability to pay. The court noted, however, that appellant's declaration stated his belief that "he has an interest in several million dollars of community property" thereby raising "an issue

of collection, not of whether the fees should be ordered.” The trial court ordered appellant to pay \$33,500 in attorney fees and costs to respondents’ counsel as follows: \$25,000 for Hussain, \$1,000 for Erum, \$5,000 for Shabano, and \$2,500 for Salima.

This appeal followed.

## **DISCUSSION**

### **I. Applicable law and standard of review**

Section 6344 authorizes the court to award attorney fees and costs to the prevailing party in a petition for a DVRO. The statute states:

“(a) After notice and a hearing, the court may issue an order for the payment of attorney’s fees and costs of the prevailing party.

“(b) In any action in which the petitioner is the prevailing party and cannot afford to pay for the attorney’s fees and costs, the court shall, if appropriate based on the parties’ respective abilities to pay, order that the respondent pay petitioner’s attorney’s fees and costs for commencing and maintaining the proceeding. Whether the respondent shall be ordered to pay attorney’s fees and costs for the prevailing petitioner, and what amount shall be paid, shall be determined based upon (1) the respective incomes and needs of the parties, and (2) any factors affecting the parties’ respective abilities to pay.” (§ 6344.)

Appellant’s contentions regarding application of section 6344 present issues of statutory construction subject to our independent review. (See *Marriage of Petropoulos* (2001) 91 Cal.App.4th 161, 177 (*Petropoulos*).)

## **II. Notice and hearing**

We reject appellant's claim that he had no notice of the attorney fees issue or the basis for the trial court's attorney fees orders. Hussain's request for a DVRO, filed on April 25, 2019, included a request for attorney fees.<sup>3</sup> The trial court's February 21, 2020 order granting Hussain's request for a DVRO and denying appellant's requests for DVRO's against respondents plainly states that "[t]he issue of attorney fees is bifurcated" and sets a briefing schedule for that issue. In accordance with that briefing schedule, respondents' attorney filed a declaration in support of their request for attorney fees, and appellant's counsel filed a responsive declaration in opposition to that request. Appellant had ample notice that respondents were seeking to recover their attorney fees against him.

Appellant was also aware of the basis for the attorney fees orders. The parties sought DVRO's against each other, and section 6344 authorizes a court to order payment of attorney fees and costs to the prevailing party in a DVRO proceeding. (§ 6344, subd. (a).)

As to appellant's contention that he was denied a hearing as required by section 6344, subdivision (a), we note that the statute does not define the term "hearing," nor does it specify the nature of the hearing it contemplates. Our Supreme Court has observed that "California courts have concluded that use of the terms 'heard' or 'hearing' does not require an opportunity for an oral presentation, unless the context or other language indicates

---

<sup>3</sup> By our own motion, we augment the record to include Hussain's request for DVRO and his attorney's declaration of ex parte notice to appellant's attorney.

a contrary intent.” (*Lewis v. Superior Court* (1999) 19 Cal.4th 1232, 1247.)

We need not, however, decide whether a separate oral hearing is required before attorney fees may be awarded under section 6344 because we conclude appellant waived such a hearing in this case. There is no evidence in the record that appellant requested a separate hearing on the attorney fees issue. At the hearing on the parties’ respective requests for DVRO’s, appellant apparently acquiesced to the trial court’s briefing schedule for written submission of the attorney fees issue. The trial court did not set a hearing date on attorney fees, and there is no indication that appellant objected or requested that a hearing date be set. There is also no indication in the record that appellant moved for reconsideration or for a new trial after attorney fees were assessed against him. Appellant accordingly waived any objection that he was denied a hearing on attorney fees. (See *Petropoulos, supra*, 91 Cal.App.4th at p. 179 [wife against whom attorney fees were imposed as sanctions under § 271 waived any hearing under that statute by not requesting a hearing, by acquiescing to trial court’s briefing schedule for written submission of fee issue, and by not moving for reconsideration or for a new trial after fees were assessed against her]; *In re Marriage of Hinman* (1997) 55 Cal.App.4th 988, 1002 [failure to object to procedural defect or erroneous ruling waives the objection].)

### **III. Ability to pay**

Appellant contends respondents’ failure to present evidence concerning the parties’ respective abilities to pay and the trial court’s failure to consider ability to pay warrants reversal of the fee orders. We disagree. Appellant failed to raise this objection

in his opposition to respondents' fee request in the trial court below and therefore forfeited the argument on appeal. (*Feduniak v. California Coastal Com.* (2007) 148 Cal.App.4th 1346, 1381.) The argument, even if not forfeited, is without merit. Although section 6344, subdivision (b) requires a court to consider certain factors, including the parties' respective abilities to pay when awarding need-based fees to a prevailing party, subdivision (a) does not include or reference those factors. The only prerequisite to an award under section 6344, subdivision (a) is that the recipient be the prevailing party. Respondents were the prevailing parties on appellant's petitions for DVRO's against them, and Hussain was the prevailing party in his DVRO petition against appellant. Subdivision (a) of section 6344 accords the trial court discretion to award fees to the prevailing party. (*Petropoulos, supra*, 91 Cal.App.4th at p. 175.) Appellant fails to establish any abuse of discretion.

### **DISPOSITION**

The orders awarding respondents their attorney fees are affirmed. Respondents shall recover their costs on appeal.

---

CHAVEZ, J.

We concur:

---

LUI, P. J.

---

ASHMANN-GERST, J.